



April 1, 2004

To: National Organic Standards Board Policy Development Committee.

From: Jim Pierce, Certification Czar, Organic Valley/CROPP Cooperative

Re: Commercial Availability (606) Task Force Recommendation for Rule Change on Commercial Availability-Draft 2 Adopted February 25, 2004

It is with great pleasure that I submit the following comments on behalf of Organic Valley/CROPP Cooperative. We at Organic Valley heartily endorse these recommendations. They are a well researched, thoroughly debated and ultimately well constructed solution to a fundamentally flawed section of the Organic Rule.

As innovators and formulators of certified organic products for over 15 years we understand firsthand the importance of sound policy regarding this important issue. Organic Valley has always been committed to formulating organic products with the "cleanest" possible labels. We have a long history of sourcing organic ingredients whenever possible. Over the years we have also switched from non-organic agricultural ingredients to a newly introduced organic version and so understand the complexities involved with such procedures.

It is exciting to know that the National Rule is itself organic and that improvements are possible.

**Recommendation 1a:**

This was a good recommendation in 2002 and continues to be good policy today.

The organic marketplace is dynamic and changing much more quickly than published CFR Regulation can keep up with. As we know Cornstarch, Gums and Pectin have become available as organic and yet remain listed in 205.606 causing confusion.

The proper vehicle for allowing and exempting Commercial Availability is within the ACAs as recommended. We understand that there is concern regarding uneven application of compliance requirements among certifiers but we are not overly concerned. The organic manufacturing community will react and adjust to infractions. Manufacturers of organic ingredients and competing organic product manufacturers will also report discrepancies. Additional oversight by the NOP during routine quality audits of ACAs will further assure a fundamental level of uniform compliance. Abuse by unscrupulous manufacturers may be possible but should be only temporary.

**Recommendation 1b:**

By only listing prohibited or restricted agricultural ingredients Processing Materials will be similarly formatted as the rest of the National List. The system of “Prohibited Natural” works well for Crop and Livestock materials.

**Recommendation 1c:**

We agree with this recommendation as written.

**Recommendation 2:**

Recommendation 2 will serve to minimize abuse by unscrupulous processors. These determination procedures are strict enough to ensure that due diligence is practiced in granting exemptions. We are confident that the certification bodies are capable of being both strict and fair.

While Quantity and Quality are legitimate topics for an exemption argument price is not. You will doubtless hear comments that will question the cost of organic versus non-organic as legitimate reason for exemption from the requirement to source organic. Vanilla is a perfect example as we have seen the cost of organic vanilla extract exceed \$280 per gallon. Please do not yield to these arguments. The industry will not grow and develop if price is allowed as an exemption. Ingredient manufacturers need assurance that if they develop an organic version of an agricultural ingredient that it will be used. Competition will control price in the long run.

Quality must include considerations of performance. Ingredients like starches and emulsifiers perform with subtle differences that can greatly impact the finished product. A non-organic ingredient may have unique performance characteristics that cannot be substituted by an organic version. When requiring a switch from a non-organic ingredient to a newly discovered or newly available organic version the manufacturer's Handling Plan must be approved with enough time to run adequate trials with the new ingredients to ensure compatibility with the actual production system. At the same time the ACA must do their best to verify that a producer's case for exemption based on performance is legitimate. Exemptions need to be on a case by case basis since complexities of equipment and formulas effect each application differently. We remain confident however that this system can and will function righteously within the scope of these recommendations.

In summary we at Organic Valley / CROPP Cooperative are supportive of these recommendations. We congratulate you for creating sound policy and look forward to the discussion of this recommendation at the NOSB meeting in Chicago and to the eventual implementation of this effort.

Organically,

Jim Pierce, Certification Czar